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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
POU920030106US1

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on July 18, 2008

Signature /Karen Taragowski/

Typed or printed name Karen Taragowski

Application Number	Filed
10/692,496	October 24, 2003

First Named Inventor
Leonard W. Helmer, Jr.

Art Unit	Examiner
2157	Barbara N. Burgess

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record.
Registration number 42,583

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/Jeffrey N. Giunta/
Signature

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Telephone number

July 18, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/692,496	Confirmation No.:	1872
Appellant:	Leonard W. Helmer JR, et al.	Atty. Docket No.	POU920030106US1
Filed:	October 24, 2003		
TC/A.U.:	2157		
Examiner:	Barbara N BURGESS		
For:	*SPECULATIVE METHOD AND SYSTEM FOR RAPID DATA COMMUNICATIONS*		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following remarks are submitted to be considered along with the Appellant's notice of appeal. The Appellants assert that the Examiner has clearly failed to cite a teaching of elements of the currently pending independent claims 1, 8, and 14 and dependent claims 2, 3, 7, 9, 10, 16, 20, and 22. The following discusses refers to an "Office Action," which is the final office action in the subject case dated April 21, 2008.

Claims 1, 8 and 14

Using claim 1 as an example, the Appellants assert that the Examiner has failed to cite a proper teaching of the "sending" and the "transferring" limitations of claim 1. Office Action, page 2, last paragraph through page 3, bottom. The Examiner cites teachings of processing that copies data received from a remote computer to local memory buffers of a receiving computer. Claim 1 is directed to sending data packets to remote computers. The Appellants assert that reversing the data flow of the Goldenberg teachings cannot provide a proper teaching of the "sending" and transferring" limitations of claim 1, particularly in the context of the other claim limitations. The Examiner is analogizing the transferring data to memory of Goldberg to "sending the first data packet to the pre-defined destination node" of claim 1, which is clearly erroneous in the context of the other claim limitations.

The Appellants point out that the Goldenberg reference is directed to "prefetching of receive queue descriptors" to perform the transfer of data from a network adapter to computer system memory when the network adapter has received that data. Goldenberg, Title and paragraphs 0009-0010. The Appellants point out that although the Goldenberg reference describes loading descriptors before the data to be transferred is received, the Goldenberg reference does not teach or suggest that the multiple data packets are transferred to the same

destination, which is explicitly defined by amended claim 1 as "the pre-defined destination node." In particular, the "sending" limitation specifies that "the first data packet" is sent "to the pre-defined destination node" and that the "packet descriptor" of the "loading" limitation also "identifies a second destination node that is the pre-defined destination node." The Appellants assert that Goldenberg cannot support the claimed concurrent operations that include the same destination.

The Appellants assert that performing the concurrent operations as defined by claim 1 with the system of the Goldenberg reference could not function since the data in the system memory that was first written by the communications adaptor would be quickly overwritten by the next received data packet. It would be likely that the first data set written to system memory by Goldenberg would be overwritten before the computer processor has finished processing that first data set. In the process of sending data packets to computer nodes, such as is defined by claim 1, data is clearly not "overwritten." Such practical differences between the system cache to system memory transfers of Goldenberg and the data communications network transfers of the presently claimed invention clearly preclude using Goldberg as a teaching of the "sending" and "transferring" limitations of claim 1. Furthermore, the Goldenberg reference is clearly an improper reference to combine with other references in an obviousness analysis.

Therefore, Goldenberg does not teach "a pre-defined destination node" to which a first data packet and a second data packet are sent "over the data communications network."

Claims 2, 9, and 15

Using claim 2 as an example, the Appellants assert that the cited references fail to teach "the fast data queue only queues data packets for transmission to the pre-defined destination node." As defined in the context of claim 1, from which claim 2 depends, it is clear that "the pre-defined destination node" is a single destination node to which data packets are sent.

The cited portion of Minnick discloses a plurality of queues wherein packets with MAC addresses (which correspond to the individual destination nodes) that end in the same bit pattern are placed into the same queue within a group. In the example given in Minnick, 4 queues are defined within a group and the last 2 bits of the MAC address are examined and messages are

placed into one of 4 queues. Minnick, paragraph 0039. As is known in the art, MAC addresses consist of 6 bytes, or 48 bits. Each queue of Minnick contains packets that are sent to a large number of nodes, not only to "pre-defined destination nodes" as is defined by claim 2.

In the example given in the Minnick reference itself, segregating MAC addresses with 2^{48} possible values into 4 queues is clearly and obviously not a teaching of "the fast data queue only queues data packets for transmission to the pre-defined destination node."

Claims 3, 10, and 16

Using claim 3 as an example, the Appellants assert that the cited references fail to teach "a user data portion that is equal to a size of a cache buffer." Final Office Action, page 14, penultimate paragraph. The rejection describes a FIFO that is a twenty-two word memory and twenty-two words of data are quickly loaded into the FIFO. *Id.* The Appellants agree with this characterization of Snyder, however the Appellants assert that there is no teaching or suggestion in Snyder that "a user data portion is equal to" twenty-two words, as would be required to teach the limitation of claim 3 in the context of Snyder's twenty-two word FIFO.

Furthermore, claim 3 states that "the first data packet and the second data packet each comprise a user data portion." Snyder goes on to state that packets have a minimum allowed size that is typically in the low hundreds of bytes. Snyder, column 6, lines 21-23. Snyder does state that a packet header may occupy "the first few dozen bytes up to a hundred bytes or more." Snyder, column 6, lines 10-12. It is clear that "a hundred bytes or more" plus a twenty-two word user data portion cannot equal in the 'low hundreds."

Claims 7, and 20

Using claim 7 as an example, the Appellants assert that the cited references fail to teach the combination of the two steps, i.e., the "altering" and the "reloading" steps, defined by claim 7. The rejection of claim 1, from which claim 7 depends, cited the 'network adapter's cache" as a teaching of the queue containing packet descriptors. Office Action, page 3, first paragraph.

Snyder teaches the processor's giving the address to the control chip directly so that the control chip can execute the transfer. Snyder column 8, lines 11-17. The only "altering" in Snyder is directly giving the address to the control chip. The Examiner then cites this same

"giving" as a teaching of the "reloading" limitation of claim 7. The Appellants assert that there is clearly and obviously no teaching or suggestion by the cited references of altering the contents of a "descriptor queue" to change a destination of a packet.

Claim 22

The Appellants refer to the above remarks concerning claim 2 regarding how the teachings of Minnick fail to teach "a pre-determined destination node." The Applicants note that the same portion of Minnick is cited as a teaching of "an adaptive nearest neighbor node within a cluster." Office Action, page 13, penultimate paragraph. Minnick never mentions any type of cluster and never mentions any type of "nearest neighbor." The Examiner's statement of a motivation to combine the Minnick and Goldenberg references does not even mention any type of cluster or nearest neighbor relationship.

The cited references therefore clearly fail to teach "the pre-defined destination is one of an adapted nearest neighbor node within a cluster."

Conclusion

For the foregoing reasons, the Appellants assert that the Examiner should withdraw the final rejection of the subject application and allow the present case to pass to allowance.

Respectfully submitted,

Date: **July 18, 2008**

By: /Jeffrey N. Giunta/

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